



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/209,541	12/11/1998	ANNA GUTOWSKA	E-1537-CIP	6863

32215 7590 09/30/2003

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET, SUITE 1600
ONE WORLD TRADE CENTER
PORTLAND, OR 97204

EXAMINER

MULLIS, JEFFREY C

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 09/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/209,541	GUTOWSKA, ANNA
	Examiner	Art Unit
	Jeffrey C. Mullis	1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 18 August 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-46 is/are pending in the application.

4a) Of the above claim(s) 13-30 and 37-46 is/are withdrawn from consideration.

5) Claim(s) 31-36 is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>803</u> .	6) <input type="checkbox"/> Other: _____ .

Art Unit 1711

All previous rejections have been withdrawn.

Applicants' amendment has been entered. However the amendment improperly introduced the misspelling "ehtyl" into claim 3. Correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. § 102(a) or (b) as being anticipated by Gutowska et al., "Thermally Reversible Polymer Gels for Biohybrid Artificial Pancreas", Volume 109, pages 156-167 (1996).

Applicants have not complied with the requirements of MPEP § 609 which require the date on any IDS for citing a reference. The current Office interpretation of the term date includes the month which is not present on applicants' IDS. Applicants are required to supply the month of the publication of the reference cited in accordance with the requirements of MPEP § 609.

Depending on the month of publication, the above reference is

Art Unit 1711

available under 35 U.S.C. § 102(a) or 102(b). However at present the month is unknown.

Gutowska et al. disclose a composition produced by polymerizing isopropyl acrylamide with acrylic acid. Note the Abstract. Note also that the composition exhibits "minimum syneresis" which would embrace applicants' limitation of "substantially no syneresis". Note also that the low molecular weight fraction is removed from the polyacrylamide by dialysis at the first paragraph on page 158. Note the first paragraph on page 160 for combination of the material with a therapeutic agent such as insulin or glucose.

Applicants have authorized payment of a fee in connection with the submission of the IDS on which the above reference was cited and accordingly this Office action is made FINAL, MPEP § 609.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (703) 308-2820. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for this Group is (703) 872-9306.

Serial No. 09/209,541

-4-

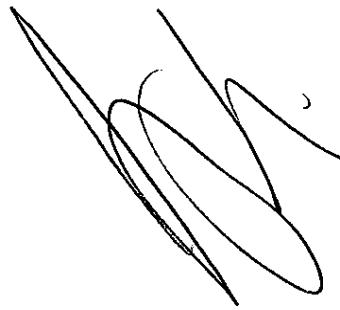
Art Unit 1711

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

J. Mullis:cdc

September 25, 2003

Jeffrey Mullis
Primary Examiner
Art Unit 1711

A handwritten signature in black ink, appearing to read "Jeffrey Mullis". The signature is fluid and cursive, with a large, stylized 'J' at the beginning.